

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DONALD L. BLANKENSHIP,)	
)	
Movant,)	
)	
v.)	Civil Action No. 5:18-00591
)	(Criminal Action No. 5:14-00244)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MOTION FOR EXTENSION OF TIME TO RESPOND

The United States of America, through the undersigned Special Attorney to the United States Attorney General, requests additional time to respond to two related motions: Movant Donald L. Blankenship's pending memorandum in support of his Motion to Vacate and Set Aside Defendant's Conviction and Sentence Pursuant to 28 U.S.C. § 2255 (ECF No. 663), and his Motion for *In Camera* Review of documents withheld on privilege grounds (ECF No. 669). Currently, the United States must reply to Movant's Section 2255 Memorandum in Support within 45 days of filing, and since that motion and the pending Motion for *In Camera* Review are closely related, it is requested that all response dates be reset to no sooner than 90 days from the current deadline set for next week. The extension of time is critical, since the undersigned Special Attorney was recently appointed and has previously assigned cases and matters to manage and prioritize, all while investing the considerable time needed to review the voluminous record and disputes of this complex, years-long investigation and prosecution.

Movant filed his Section 2255 Motion on April 18, 2018. Recently, on May 21, 2018, Movant filed a motion requesting this Court to review certain documents *in camera* withheld on privilege grounds by the U.S. Attorney for the Southern District of West Virginia, based on assertions of privilege by the United States Department of Labor. The motion for *in camera* review is directly related to the underlying allegations in the Section 2255 motion.

For a brief period of time, the case was assigned to the U.S. Attorney for the Eastern District of Kentucky (ECF No. 672). During that time, the United States requested an extension of time to respond to Movant's motion for *in camera* review, but did not ask for more time regarding Movant's related and impending Section 2255 Memorandum in Support. The Court's most recent Order (ECF No. 674), granted the request for an extension of time, and a response to the motion is currently due next week on June 14, 2018. In that same Order, the Court forecasted and outlined the triggers that would require both Movant and Respondent to make timely motions and replies; including an order that Respondent reply to the numerous allegations underlying the Section 2255 action within 45 days once a memorandum is filed by Movant. So once Movant's Section 2255 Memorandum in Support is filed, as currently set, the United States must file an answer to all allegations within 45 days. The motion for *in camera* review and the Section 2255 motion are closely related and will require a comprehensive understanding of this years-long investigation and prosecution. The United States asks that the deadline for its response to the motion for *in camera* review and any response to the Section 2255 memorandum be reset to be on or after September 12, 2018, which is 90 days from the date currently set for the United State's first response due next week, on June 14, 2018.

Setting a new date to reply to all motions is critical and justified by the circumstances. Just days ago, on May 31, 2018, the undersigned was sworn-in to represent the United States in this

matter as a Special Attorney to the United States Attorney General. As Movant noted in his Section 2255 Motion, the Department of Justice Office of Professional Responsibility conducted an investigation and the Movant asserts that any report of the investigation will add material information to the subject matter of his action (ECF No. 663, p. 2, para. 3). Movant further notes that the government has recently provided new information and the full scope of the facts are still “coming to light.” (ECF No. 663, p.3, para. 4). The United States can neither take a position on Movant’s assertions nor the facts supporting them, but rather the point is, even some of the facts cited by Movant favor the setting of new dates.

Currently, the undersigned is: (a) reviewing the voluminous record, most of which is supported by documents located out-of-state; (b) reaching-out to those involved with the issues raised, seeking to determine the position of numerous related parties through their counsel; and, (c) collecting facts, including those still being adduced, in this complex case. Over the coming days and weeks, the undersigned will: (1) reprioritize a significant caseload of previously assigned investigations, matters and cases in the Southern District of Ohio; (2) work hard to obtain the necessary files, documents, and records from the Southern District of West Virginia and all related parties; (3) review the relevant documents as they come in, including those related to the most recent privilege claims; (4) explore the positions of the related parties to this case and seek to obtain both historical and timely information from them; and (5) review the voluminous court record in the underlying criminal and civil cases.

For these reasons, it is requested that all replies due by the United States (both in reply to the motion for *in camera* review and a reply to any memorandum in support of the Section 2255 motion) be reset and be due on or after September 12, 2018, which is 90 days from the date currently set for the United States' first response due next week.

Respectfully submitted,

JEFFERSON B. SESSIONS III
United States Attorney General

BENJAMIN C. GLASSMAN
United States Attorney
Southern District of Ohio

s/ Douglas W. Squires

DOUGLAS W. SQUIRES (Ohio 0073524)

Special Attorney to the United States Attorney General

Assistant United States Attorney

Southern District of Ohio

303 Marconi Boulevard, Suite 200

Columbus, Ohio 43215

Office: (614) 469-5715

Fax: (614) 469-2769

E-mail: Douglas.Squires@usdoj.gov

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CERTIFICATE OF SERVICE

I, Douglas W. Squires, serving as Special Attorney to the United States Attorney General, do hereby certify that a copy of the foregoing Motion for Extension of Time to Respond was served this 6th day of June, 2018, electronically on all counsel of record.

s/ Douglas W. Squires

DOUGLAS W. SQUIRES (Ohio 0073524)
Special Attorney to the United States Attorney General